

## **ARTICLE 14 PHASED GROWTH**

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### **SECTION 14.0 INTENT & PURPOSE**

The purpose of this Article is to ensure that growth occurs in an orderly and planned manner that allows the Town to develop and maintain high quality municipal services for an expanding residential population while allowing a reasonable amount of additional residential growth. The citizens of Amherst insist on, have pride in, and enjoy a reputation for high quality and reliable municipal services, including water, human services and schools.

This Article will enhance the Town's ability to provide services that keep pace with the impacts of residential development. In addition, this Article encourages certain types and patterns of residential growth which reflect the values of the Town as previously expressed in both policies and appropriations.

### **SECTION 14.1 REGULATIONS**

- 14.10 The regulations of this Article shall apply to all definitive subdivision plans, subdivisions not requiring approval, site plan review applications and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for purposes of development scheduling, if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Article.
- 14.11 For the purposes of this Article, any person who owned a parcel of land in Amherst prior to April 17, 1986, shall receive a one-time exemption (one building permit) from the Planned Growth Rate (Section 14.2) and the Development Schedule (Section 14.3) for the purpose of constructing a single-family dwelling unit on the parcel owned, provided that the single-family dwelling unit shall be owned and occupied by the owner of that parcel of land. The issuance of a building permit for this purpose shall, however, count toward the growth rate limit of 250 dwelling units.
- 14.12 For the purposes of this Article, a single building lot that is to be sold as part of a transaction that will preserve a tract of land three acres or larger for open space preservation purposes or five acres or larger for farmland preservation purposes, may be exempted from the Planned Growth Rate (Section 14.2) and Development Schedule (Section 14.3). The land to be preserved shall be protected from development by an Agricultural Preservation Restriction, Conservation Restriction, dedication to the Town, or other similar mechanism that will ensure its protection.

The exemption request shall be made to the Planning Board and the Board shall transmit such request to the Conservation Commission for comment. The Commission shall have twenty-one (21) days to respond in writing to the Board. Subsequent to receiving written comment or the passage of twenty-one (21) days, the Planning Board shall render a decision on the exemption request.

The issuance of a building permit for this purpose shall, however, count toward the growth rate limit of 250 dwelling units.

- 14.13 For all building lots/dwelling units not covered under Section 14.11, including those no longer having the protection accorded by Chapter 40A, Section 6, the Planning Board is authorized to approve a development schedule for that lot/unit, including the month/year such lot/unit shall be eligible for a building permit.

The request for authorization of a development schedule shall be made on forms provided by the Board.

## **SECTION 14.2 PLANNED GROWTH RATE**

- 14.20 This Article shall take effect beginning on the date of adoption by Town Meeting and shall continue in effect for six calendar years from November 15, 2004, in order to provide the Town time to prepare and implement a master plan in accordance with MGL Ch. 41, Section 81D. Beginning on the date of adoption, the permit granting authority (Planning Board, Zoning Board or Building Commissioner) shall not approve any development schedule under Section 14.5 which would result in authorizations for more than 250 dwelling units over a 730 consecutive day (two year) period. All authorizations shall count toward this planned growth rate unless otherwise noted.
- 14.21 Once a development schedule is approved in accordance with Section 14.5, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 250 limit has been reached.
- 14.22 Whenever the rate of growth, as measured by a total of development schedule authorizations plus building permits issued for new dwelling units not part of a development schedule, exceeds a rolling total of 250 additional dwelling units over a 730 consecutive day period, the Building Commissioner shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the 250 limit under either Section 14.11, 14.12 or 14.410.
- 14.23 If as a result of an applicant seeking approval of a second plan of development on a parcel of land for which authorizations have been previously granted, and the second plan is approved, a new development schedule shall be established. This schedule shall supersede the first development schedule at the time a building permit is issued, based on the second plan, for any lot lying wholly or partially within the parcel subject to the new development schedule.

The Planning Board and/or Zoning Board of Appeals, in approving the second plan, shall determine the number of authorizations from the first plan that would be abated based on the second plan's approval. This number shall be used by the Building Commissioner in revising authorization schedules due to abatements.

## **SECTION 14.3 DEVELOPMENT SCHEDULE**

Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

<u>Number of New Units in Development</u>	<u>Dwelling Units/Year*</u>
1 - 4	50%
5 - 12	up to 45%
13+	up to 40%

\*Percent of units in the development for which building permits may be authorized each year.

## **SECTION 14.4 MODIFICATIONS TO SCHEDULE**

The following modifications to the development schedule found in Section 14.3 shall be allowed by the Planning Board (for Definitive Subdivisions/Form A Subdivisions/Cluster Subdivisions/Special Permits/Site Plan Review) or Zoning Board (for Special Permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the MODIFICATION TO SCHEDULE TABLE found in Section 14.48.

### **14.41 AFFORDABLE HOUSING**

- 14.410 Any development which includes 25% or more of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Amherst and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years, shall be exempt from the Planned Growth Rate in Section 14.2.

		Points <u>Assigned</u>
	All market rate units within the development shall count toward the 250 units in the 730 consecutive day period.	30 pts.
14.411	Any development that meets the criteria found in Section 14.410, but which includes 10% - 24% of its units for low and moderate income people.	20 pts.
14.42	VILLAGE CENTER & MIXED USE DEVELOPMENT	
14.420	Any development or conversion within the General Business (B-G) and the abutting Limited Business (B-L) districts, or within the General Residence (R-G), Village Center Business (B-VC) or Village Center Residence (R-VC) districts.	30 pts.
14.421	Any development or conversion within 1,000 feet of said districts.	20 pts.
14.422	Any use under Section 3.325 within the COM District.	15 pts.
14.423	Any use under Section 3.325 within the B-G, B-L, B-VC or R-VC District.	10 pts.
14.43	OPEN SPACE/FARMLAND	
14.430	Provision of open space/parkland, as part of any development, which meets the criteria in Section 4.344 and 4.382.	
	Open space consisting of at least 2,000 sq.ft. of usable land per dwelling unit.	5 pts.
	Open space consisting of at least 4,000 sq.ft of usable land per dwelling unit.	10 pts.
	Open space consisting of at least 6,000 sq.ft. or more of usable land area per dwelling unit.	15 pts.
14.431	Protection and retention of farmland according to the following impacts on working farms.	
	Development on agricultural land, defined as land classified prime, unique or of state and local importance by the USDA SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws.	-30 pts.
	In the Farmland Conservation (FC) District, retention and preservation of agricultural land, as a percentage of the total area of any proposed development, under permanent agricultural restriction.	2 pts./5% of total project area protected (max. 30 pts.)

Provision of a 150-foot buffer zone, including a fence and screening vegetation, from the property boundary of a working farm. 5 pts.

14.432 FC District

14.4320 Frontage or flag lot development under M.G.L. Ch. 41, Section 81P, with frontage located outside the FC District and a portion of lot area abutting or within the FC District.

More than 5,000 sq. ft. of individual or average lot area in FC District. -30 pts.

2,500-5,000 sq. ft. of individual or average lot area in FC District. -15 pts.

Less than 2,500 sq. ft. of individual or average lot area in FC District. - 5 pts.

No lot area in FC District. 0 pts.

14.44 AQUIFER & WATERSHED PROTECTION

Development in the Aquifer Recharge Protection (ARP) And Watershed Protection (WP) overlay districts:

No public sewer. -30 pts.  
Public sewer. -15 pts.

14.45 CLUSTER

Any development which is constructed under the cluster provisions of Section 4.3 of the Zoning Bylaw. For any development which includes both cluster lots and standard lots, the 30 points shall be pro-rated based on the percentage of cluster lots to total lots in the development. 30 pts.

14.46 PURD/OSCD

Any development which is constructed under the PURD provisions of Section 4.4 or the OSCD provisions of Section 4.5 of the Zoning Bylaw. 30 pts.

14.47 OTHER

The Planning Board (Definitive Subdivisions/Form A Subdivisions/Cluster Subdivisions/Special Permits/Site Plan Review) and Zoning Board of Appeals (Special Permits) may grant up to a total maximum of 30 additional points or may deduct up to a total maximum of 30 points based on, and with due consideration to, the following:

14.470 Improvements or contributions which will allow the Town to adequately serve the proposed development with streets, utilities, drainage, educational and protective services and other public services and facilities such as childcare, health care, elder services, disabled services, recreation, the arts, transportation or water conservation. These need not occur on-site, but may take the form of contributions or improvements to off-site infrastructure.

14.471 Amelioration of other development impacts, such as the development of lower densities, than otherwise permitted in the outlying areas of the town, i.e., the R-N District (within the FC and ARP

overlay districts) and the R-O and R-LD districts, or the preservation of natural, agricultural, historic, archeological or cultural resources, significant street or shade trees and scenic views.

- 14.472 Other arrangements which will provide for or reduce the cost of, public services and facilities such as childcare, health care, elder services, disabled services, recreation, transportation or water conservation.
- 14.473 Provision of housing needs for diverse population groups including, but not limited to, the elderly and persons with disabilities. Special consideration may be given to the scheduling of developments that include attached units or apartments to meet these needs.
- 14.474 Commitments already made in the development schedules for approved developments.
- 14.475 Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to, preserve and/or enhance the character of the neighborhood.
- 14.476 Site design which maximizes energy efficiency including, but not limited to, passive and active solar energy.
- 14.477 Provision of walking, bicycle or bridle paths or trails on-site, including consideration of links to off-site paths.
- 14.478 Provision of subdividable dwellings in accordance with Section 3.3240.
- 14.479 Location of the proposed development within 1,000 feet of a heavily-traveled major arterial street.

#### 14.48 DEVELOPMENT SCHEDULE MODIFICATION TABLE

Points accumulated under Sections 14.41 through 14.47 shall be totaled and the total shall modify the Development Schedule in Section 14.3 according to the following table.

Point Total	Dwelling Units/Year*		
	Developments of 1-4 units	Developments of 5-12 units	Developments of 13+ units
≤-60	20%	15%	10%
-50 to -59	25%	20%	15%
-40 to -49	30%	25%	20%
-30 to -39	35%	30%	25%
-20 to -29	40%	35%	30%
-10 to -19	45%	40%	35%
-1 to -9	50%	45%	40%
0 to 9	60%	50%	45%
10 to 19	70%	55%	50%
20 to 29	80%	60%	55%
30 to 39	90%	70%	60%
40 to 49	100%	80%	70%
50 to 59	100%	90%	80%
60 to 69	100%	100%	90%
70+	100%	100%	100%

\* Unit counts/year including fractions shall, if the fractional portion is equal to 0.5 or greater, be rounded up to the nearest whole number; and, if the fractional portion is less than 0.5, shall be rounded down to the nearest whole number (examples: 1.8 = 2 units; 3.2 = 3.0 units).

## **SECTION 14.5      REQUIREMENTS**

14.51      All Definitive Subdivisions, Form A Subdivisions, Special Permits and Site Plan Review applications shall include a proposed development schedule by the applicant.

14.52      Development schedules shall be determined by the Zoning Board (Special Permits) or Planning Board (Site Plan Review, Definitive Subdivision, ANR Subdivision) at the time of approval of any such application, using the following format: "The first year of the development schedule shall be (month/year) or such earlier date that may result from intervening abatements." Such schedules shall be included as a condition of approval of the application.

The Building Commissioner shall be authorized to issue revised development schedules based solely on abatements approved by the Zoning Board or Planning Board.

All development schedules with approved authorizations shall be recorded with the application approval decision with the Town Clerk and shall not be calculated into the overall growth rate until so recorded. In order to effectuate the schedule for the purposes of obtaining building permits, the applicant shall record the approval decision with the development schedule at the Registry of Deeds.

14.53      In the case of a cluster subdivision, a development schedule shall be approved by the Planning Board at the time of Definitive Subdivision approval.

## **SECTION 14.6      ZONING CHANGE PROTECTION**

The protection against zoning changes as granted by Section 6 of Chapter 40A G.L., shall, in the case of a development whose completion has been constrained by this Bylaw, be extended to the minimum time for completion allowed under this Bylaw.